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To: [McGuigan, David](#); [Gleason, Patricia](#)
Cc: [Cindy Wilton](#)
Subject: MEETING SUMMARY, ADD'L QUESTIONS
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December 16, 2014

Mr. McGuigan, Ms. Gleason,

First, thank you for taking the time to talk to me and answer some of my questions. In addition, I have had some time to digest our discussion to see where that left some of my issues and concerns.

The following is a brief summary and my view of our discussion.

1. The fact that a modification of an expired NPDES permit violates EPA policy seems to be irrelevant in this case since the EPA seems to indicate that DNREC can just reissue the permit under the same number or new number with all the new Allen Harim Chicken plant requirements.

2. EPA's basic response to most of my concerns was that the EPA would have to review the new Allen Harim permit to make sure it met the EPA's and Indian River TDML requirements.

However, it seems obvious based on our discussion that the EPA had little or no knowledge of the nutrient offsets or offset techniques being used to meet the Pinnacle plant permit requirements and therefore had no knowledge if the Pinnacle Plant was ever meeting their permit and TDML requirements. Therefore, the EPA's review of the new Allen Harim permit concerns me in that it will be no more than a rubber stamp process.

In addition, a statement made on an internal DNREC E-Mail dated Feb 13, 2013 says "Attached is the page from the current Pinnacle permit that deals with nutrient off-sets. As you can see, we have only asked them to off-set at least an equivalent amount of nitrogen and phosphorus" not the 2:1 offset required by the 2008 Indian River TDML. Therefore, where was the EPA when DNREC apparently set up the Pinnacle plant permit offset requirements that violated the TDML?

3. The fact that Dogfish brewery was continuing to dump their wastewater into the Pinnacle plant wastewater system to keep the Pinnacle wastewater biomass alive appeared to be of no concern to the EPA.

Based on the above and the fact that I think that the nutrient offset process can easily be no more than a fraudulent con game, I am going to ask the EPA to take a more proactive role and prove me wrong.

Rather than the EPA just sitting back and waiting to review a new Allen Harim permit, I am requesting you review the Pinnacle Plant permit to see what went wrong as well as provide

documented policy to prove the nutrient offsets are achievable, standard from state to state and supported by the scientific world.

1. DNREC gave nutrient offset credits for the elimination of corn production, planting and harvesting of Reed Canary grass and pumping and treating of groundwater. If these offsets are truly credible, then there should be documented mathematical formulas along with documented scientific studies available to back them up. Also, since these offset techniques can apparently be used from state to state, there should be EPA standard guidelines as to how these techniques are used and how nutrient credits are derived by each state.
2. For example, if there are five different types of grasses that can be grown and harvested to remove nitrogen and phosphorus from the soil to offset the nitrogen and phosphorous discharged into the river then there should be documented charts, formulas and scientific research support for each grass. For, example, how much nutrient credit do you get from not growing one acre of corn? For, example how much nutrient credit do you get from pumping one gallon of groundwater? There should be documented EPA standards for each of these examples. It would be absurd to think each state derives their own conversion rates or worse case each point source determines their own.

Based on documentation, DNREC was not even requiring Pinnacle to meet the TDML requirements. DNREC documentation seems to clearly indicate that rules were stretched, bent and broken to “keep the Pinnacle Vlasic Plant viable”. The Pinnacle nutrient offset results were calculated and provided by Pinnacle each year and there appears to be no actual verification by DNREC. Based on our discussion yesterday, it was clear that the EPA was totally unaware if Pinnacle was meeting their permit requirements, what offset techniques were being used and how the nutrient credits and offsets were even calculated or obtained. If this is an example of how all point source permits are handled, the process is tainted and that is being kind.

In closing, if the EPA is unable to provide the basic data above to support this nutrient offset game that is being played then again I have no choice but to claim that the process is fraudulent and without credibility. I hope you can prove me wrong and show me that the EPA and DNREC are doing and have done their job in protecting the environment.

This time I am requesting a written response.

Thank you,

Barry Goldman

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